

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**EINSTEIN LIMA,**

**04 CV 4422 (NG) (KAM)**

**Petitioner,**

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**ORDER**

**- against -**

**WILLIAM PHILLIPS, Superintendent of  
Green Haven Correctional Facility,**

**Respondent.**

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**GERSHON, United States District Judge:**

The court has reviewed the report and recommendation of Magistrate Judge Matsumoto dated November 3, 2005, as well as the petitioner's objections. Judge Matsumoto's report and recommendation is thorough and correctly analyzes the law and the facts. The objections are without merit. Accordingly, Judge Matsumoto's report and recommendation is adopted in its entirety.

Petitioner's application for a writ of habeas corpus is denied. Since petitioner has failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability is denied pursuant to 28 U.S.C. § 2253(c). Moreover, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that *in forma pauperis* status is denied for the purpose of an appeal. The Clerk of Court is directed to close this case.

**SO ORDERED.**

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/S/

**NINA GERSHON  
United States District Judge**

Dated: Brooklyn, New York  
December 19, 2005